



General Assembly

January Session, 2005

***Raised Bill No. 6723***

LCO No. 3564

\*03564\_\_\_\_\_TRA\*

Referred to Committee on Transportation

Introduced by:  
(TRA)

***AN ACT CONCERNING PLACEMENT OF UTILITY TRANSMISSION  
LINES IN THE HIGHWAY RIGHT OF WAY AND REVIEW OF  
FEDERALLY APPROVED TRANSMISSION RATES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 13a-126 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in this section, "public service facility" includes all  
4 privately, publicly or cooperatively owned lines, facilities and systems  
5 for producing, transmitting or distributing communications, cable  
6 television, power, electricity, light, heat, gas, oil, crude products,  
7 water, steam, waste, storm water not connected with highway  
8 drainage and any other similar commodities, including fire and police  
9 signal systems and street lighting systems which directly or indirectly  
10 serve the public. Whenever the commissioner determines that any  
11 public service facility located within, on, along, over or under any land  
12 comprising the right-of-way of a state highway or any other public  
13 highway when necessitated by the construction or reconstruction of a  
14 state highway shall be readjusted or relocated in or removed from such  
15 right-of-way, the commissioner shall issue an appropriate order to the

16 company, corporation or municipality owning or operating such  
17 facility, and such company, corporation or municipality shall readjust,  
18 relocate or remove the same promptly in accordance with such order;  
19 provided an equitable share of the cost of such readjustment,  
20 relocation or removal, including the cost of installing and constructing  
21 a facility of equal capacity in a new location, shall be borne by the  
22 state, except that the state shall not bear any share of the cost of  
23 readjusting, relocating or removing any electric trunkline or electric  
24 transmission type public service facility. Such equitable share, in the  
25 case of or in connection with the construction or reconstruction of any  
26 limited access highway, shall be the entire cost, less the deductions  
27 provided in this section, and, in the case of or in connection with the  
28 construction or reconstruction of any other state highway, shall be  
29 such portion or all of the entire cost, less the deductions provided in  
30 this section, as may be fair and just under all the circumstances, but  
31 shall not be less than fifty per cent of such cost after the deductions  
32 provided in this section. In establishing the equitable share of the cost  
33 to be borne by the state, there shall be deducted from the cost of the  
34 readjusted, relocated or removed facilities a sum based on a  
35 consideration of the value of materials salvaged from existing  
36 installations, the cost of the original installation, the life expectancy of  
37 the original facility and the unexpired term of such life use. When any  
38 facility is removed from the right-of-way of a public highway to a  
39 private right-of-way, the state shall not pay for such private right-of-  
40 way, provided, when a municipally-owned facility is thus removed  
41 from a municipally-owned highway, the state shall pay for the private  
42 right-of-way needed by the municipality for such relocation. The  
43 failure of the commissioner and the company, corporation or  
44 municipality owning or operating such facility to agree on the share of  
45 the cost to be borne by the state shall not relieve the owner or operator  
46 of the public service facility from readjusting, relocating or removing  
47 the public service facility promptly on receipt of the commissioner's  
48 order issued pursuant to this section. If the commissioner and the  
49 company, corporation or municipality owning or operating such

50 facility cannot agree upon the share of the cost to be borne by the state,  
 51 either may apply to the superior court for the judicial district within  
 52 which such highway is situated, or, if said court is not in session, to  
 53 any judge thereof, for a determination of the cost to be borne by the  
 54 state, and said court or such judge, after causing notice of the  
 55 pendency of such application to be given to the other party, shall  
 56 appoint a state referee to make such determination. Such referee,  
 57 having given at least ten days' notice to the parties interested of the  
 58 time and place of the hearing, shall hear both parties, shall view such  
 59 highway, shall take such testimony as such referee deems material and  
 60 shall thereupon determine the amount of the cost to be borne by the  
 61 state and immediately report to the court. If the report is accepted by  
 62 the court, such determination shall, subject to right of appeal as in civil  
 63 actions, be conclusive upon both parties.

64 Sec. 2. Section 13a-126c of the general statutes is repealed and the  
 65 following is substituted in lieu thereof (*Effective from passage*):

66 Notwithstanding any provision of the general statutes, the  
 67 Commissioner of Transportation may enter into an agreement with the  
 68 owner or operator of a public service facility, as such facility is defined  
 69 in section 13a-126, as amended by this act, desiring the longitudinal  
 70 use of the right-of-way of a state highway to accommodate trunkline  
 71 or transmission type utility facilities and to fix the terms, conditions  
 72 and rates and charges for use of such right-of-way; provided, no such  
 73 agreement shall exempt a public service facility from the provisions of  
 74 chapter 277a. In the case of public service companies, as defined in  
 75 subdivision (1) of subsection (a) of section 16-1, such charges or rates  
 76 shall not exceed the actual administrative, construction, operation and  
 77 maintenance costs of the department incurred as a result of the public  
 78 service company's use of a nonlimited access state highway. The  
 79 department may estimate such charges or rates and require  
 80 prepayment of such charges or rates provided any amount in excess of  
 81 the actual amount is refunded to the public service company.

82       Sec. 3. (NEW) (*Effective from passage*) (a) There shall be a  
83       transmission adjustment clause to reflect changes from amounts  
84       allowed in base rates for the transmission costs incurred by an electric  
85       distribution company under the Federal Energy Regulatory  
86       Commission approved wholesale transmission rates, tariffs and  
87       charges. A transmission adjustment clause shall:

88       (1) Allow adjustments to the transmission component of the rates of  
89       an electric distribution company, including, but not limited to, true  
90       ups, credits and charges that are required under the Federal Energy  
91       Regulatory Commission rates, tariffs and charges;

92       (2) Be superimposed upon the existing rate schedule of the electric  
93       distribution company;

94       (3) Be subject to modifications to reflect any changes in the manner  
95       and method of collecting rates, tariffs and charges imposed by the  
96       Federal Energy Regulatory Commission; and

97       (4) Allow the electric distribution company to charge or to  
98       reimburse the consumer only for the changes in federally approved  
99       transmission rates, tariffs or charges.

100       (b) No later than ninety days after the effective date of this section,  
101       each electric distribution company shall file an application with the  
102       Department of Public Utility Control pursuant to subsection (c) of this  
103       section. No proposed transmission adjustment clause charge or credit  
104       shall become effective until the department has approved such charge  
105       or credit after an administrative proceeding pursuant to said  
106       subsection (c). Notwithstanding the provisions of section 16-19 of the  
107       general statutes, the department shall make any changes to the  
108       adjustment clause in accordance with the provisions of subsections (d)  
109       to (h), inclusive, of this section.

110       (c) Any electric distribution company shall, no later than ninety  
111       days after the effective date of any change in its costs caused by the

112 Federal Energy Regulatory Commission, file with the Department of  
113 Public Utility Control an application to adjust the charge or credit to  
114 account for such changes in its electric transmission costs. On receipt  
115 of such an application, the department shall conduct an administrative  
116 proceeding in accordance with subsection (d) of this section.

117 (d) (1) An administrative proceeding on an application made  
118 pursuant to subsection (c) of this section shall be open to the public  
119 and shall be convened no later than thirty days after the filing of an  
120 application by an electric distribution company requesting such a  
121 proceeding. Notice of the application and proceeding shall be  
122 published at least five days prior to the proceeding in a newspaper of  
123 general circulation in the area served by such company.

124 (2) The department shall receive and consider comments of  
125 interested persons and members of the public at such a proceeding,  
126 which shall not be considered a contested case for purposes of title 4 or  
127 title 16 of the general statutes or any regulation adopted thereunder.

128 (3) Any approval or denial of the department pursuant to this  
129 section shall not be deemed an order, authorization or decision of the  
130 department for purposes of section 4-183 or 16-35 of the general  
131 statutes.

132 (e) If the Department of Public Utility Control approves the  
133 application made pursuant to subsection (c) of this section, the  
134 department shall specify the requirements of the filing to support the  
135 requested charge or credit.

136 (f) Notwithstanding the provisions of this section, if the department  
137 has not rendered an approval or denial concerning any such  
138 application no later than the thirtieth day after the administrative  
139 proceeding is convened, the proposed charge or credit shall become  
140 effective at the option of the company pending the department's  
141 finding with respect to such charge on the filing by the company with  
142 the department of an assurance. Such assurance may include a bond

143 with surety, and shall satisfy the department of the company's ability  
144 and willingness to refund to its customers any such amounts as the  
145 company may collect from them in excess of the charge approved by  
146 the department in its finding.

147 (g) The Department of Public Utility Control shall, annually,  
148 determine whether charges or credits made under the transmission  
149 adjustment clause have been correctly computed in accordance with  
150 applicable Federal Energy Regulatory Commission rates, tariffs or  
151 charges and the adjustment clause, and shall reconcile the difference  
152 between (1) total transmission revenues received through base rates  
153 and the transmission adjustment clause, and (2) transmission expenses,  
154 including true ups, for the electric distribution company, with any  
155 difference credited or charged to customers as part of a subsequent  
156 period's transmission adjustment clause.

157 (h) If the Department of Public Utility Control finds that such  
158 charges or credits pursuant to subsection (g) of this section have not  
159 been incurred under the applicable Federal Energy Regulatory  
160 Commission rates, tariffs or charges, or are not computed in  
161 accordance with the applicable clause, it shall recompute such charges  
162 or credits and shall direct the company to take such action as may be  
163 required to ensure that such charges or credits properly reflect the  
164 costs incurred under the applicable Federal Energy Regulatory  
165 Commission rates, tariffs or charges and are computed in accordance  
166 with the applicable clause for the applicable period.

167 Sec. 4. Section 16-245d of the general statutes is repealed and the  
168 following is substituted in lieu thereof (*Effective from passage*):

169 (a) The Department of Public Utility Control shall, by regulations  
170 adopted pursuant to chapter 54, develop a standard billing format that  
171 enables customers to compare pricing policies and charges among  
172 electric suppliers. Not later than January 1, 2005, the department shall  
173 adopt regulations, in accordance with the provisions of chapter 54, to  
174 provide that an electric supplier may provide direct billing and

175 collection services for electric generation services and related federally  
176 mandated congestion costs that such supplier provides to its  
177 customers that use a demand meter or have a maximum demand of  
178 not less than five hundred kilowatts and that choose to receive a bill  
179 directly from such supplier. An electric company, electric distribution  
180 company or electric supplier that provides direct billing of the electric  
181 generation service component and related federally mandated  
182 congestion costs, as the case may be, shall, in accordance with the  
183 billing format developed by the department, include the following  
184 information in each customer's bill, as appropriate: (1) The total  
185 amount owed by the customer, which shall be itemized to show, (A)  
186 the electric generation services component and any additional charges  
187 imposed by the electric supplier, if applicable, (B) the [electric  
188 transmission and] distribution charge, including all applicable taxes  
189 and the systems benefits charge, as provided in section 16-245l, (C) the  
190 transmission charge and transmission adjustment charge or credit, as  
191 provided in section 3 of this act, shall be provided in a single line item,  
192 (D) the competitive transition assessment, as provided in section 16-  
193 245g, [(D)] (E) federally mandated congestion costs, and [(E)] (F) the  
194 conservation and renewable energy charge, consisting of the  
195 conservation and load management program charge, as provided in  
196 section 16-245m, and the renewable energy investment charge, as  
197 provided in section 16-245n; (2) any unpaid amounts from previous  
198 bills which shall be listed separately from current charges; (3) except  
199 for customers subject to a demand charge, the rate and usage for the  
200 current month and each of the previous twelve months in the form of a  
201 bar graph or other visual form; (4) the payment due date; (5) the  
202 interest rate applicable to any unpaid amount; (6) the toll-free  
203 telephone number of the electric distribution company to report power  
204 losses; (7) the toll-free telephone number of the Department of Public  
205 Utility Control for questions or complaints; (8) the toll-free telephone  
206 number and address of the electric supplier; and (9) a statement about  
207 the availability of information concerning electric suppliers pursuant  
208 to section 16-245p.

209 (b) The regulations shall provide guidelines for determining the  
 210 billing relationship between the electric distribution company and  
 211 electric suppliers, including but not limited to, the allocation of partial  
 212 bill payments and late payments between the electric distribution  
 213 company and the electric supplier. An electric distribution company  
 214 that provides billing services for an electric supplier shall be entitled to  
 215 recover from the electric supplier all reasonable transaction costs to  
 216 provide such billing services as well as a reasonable rate of return, in  
 217 accordance with the principles in subsection (a) of section 16-19e.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	13a-126
Sec. 2	<i>from passage</i>	13a-126c
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	16-245d

***Statement of Purpose:***

To clarify responsibility for future costs associated with placement of utility transmission lines in state highway rights of way, to create a new administrative review process for federally approved transmission rates and to amend the billing format to allow those rates to be reflected as a line item on customer bills.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*